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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 JASON BROWN,

11 Petitioner,

No. CIV S-05-0866 FCD EFB P

12 vs.

13 DIANA K. BUTLER, Warden,

14 Respondent.

ORDER

15 _____/
16 Petitioner is a state prisoner without counsel seeking a writ of habeas corpus. *See* 28
17 U.S.C. § 2254. Judgment was entered dismissing this action without prejudice on November 29,
18 2007 pursuant to a finding that the petition contained both exhausted and unexhausted claims.
19 Dckt. Nos. 76, 78, 79. Petitioner sought relief from that judgment on March 2, 2009, which the
20 court denied. Dckt. Nos. 87, 89. Petitioner now comes with a second motion for relief from the
21 judgment. Dckt. No. 90.

22 Petitioner contends that the court's order denying his first motion for relief from
23 judgment failed to address his contentions that: (1) the amended petition he filed on January 16,
24 2008, after judgment had been entered dismissing the action, is "pending, undetermined and
25 unadjudicated" and (2) petitioner did comply with the court's order of July 10, 2007, in which
26 the court ordered petitioner to either file an amended petition deleting the unexhausted claims or

1 a motion seeking a stay and abeyance. The court will address each argument in turn.

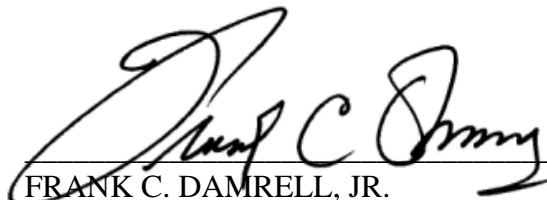
2 First, the amended petition filed on January 16, 2008 is not pending. Judgment has been
3 entered in this action dismissing the petition on November 29, 2007. Petitioner cannot revive the
4 action simply by filing an amended petition after entry of judgment.

5 Second, as this court found in the order denying petitioner's first motion for relief from
6 judgment, petitioner did not comply with the court's July 10, 2007 order. Petitioner did not file
7 an amended petition deleting the unexhausted claims or file a request for a stay and abeyance
8 within the time provided by the court's orders.

9 The court informs petitioner once again that this case is closed. The court will take no
10 action on future filings by petitioner that are not authorized by the Federal Rules of Civil
11 Procedure or the Federal Rules of Appellate Procedure.

12 Accordingly, it is hereby ordered that petitioner's motion for relief from judgment
13 (Docket No. 90) is denied.

14 Dated: February 10, 2011.

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17 FRANK C. DAMRELL, JR.
18 UNITED STATES DISTRICT JUDGE
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